



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

OCT 31 2006

REPLACES ATTENTION OF:

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Charles W. Soeder, Vice President  
Technology, Innovation, and Sustainability Group  
BASF Admixtures, Inc.  
23700 Chagrin Boulevard  
Cleveland, Ohio 44122

Re: Finding of Violation  
BASF Admixtures, Inc.  
Cleveland, Ohio

Dear Mr. Soeder:

This is to advise you that the United States Environmental Protection Agency (U.S. EPA) has determined that BASF Admixtures, Inc., formerly known as Degussa Admixtures, Inc., (BASF Admixtures or you) at 23700 Chagrin Boulevard, Cleveland, Ohio, is in violation of Sections 183 and 111(e) of the Clean Air Act (CAA), 42 U.S.C. §§ 7511b and 7411(e), and the National Volatile Organic Compound (VOC) Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D, as provided below. We are today issuing to you a Finding of Violation (FOV).

Under Section 183(e) of the CAA, 42 U.S.C. § 7511b(e), U.S. EPA is authorized to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of VOCs. On September 11, 1998, U.S. EPA promulgated National VOC Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D (the Architectural Coatings Rule). The Architectural Coatings Rule includes a requirement that each manufacturer and importer of any architectural coating subject to the Rule shall ensure that the VOC content of the coating does not exceed the applicable limit specified in the Rule, except when the manufacturer or importer pays an exceedance fee or properly designates the coating to be exempt from the VOC content limits. The purpose of the limits is to help protect the public from unhealthy exposures to VOCs. VOCs react with nitrogen oxides in the presence of sunlight to form ground-level ozone, which contributes to respiratory problems such as increased susceptibility to respiratory infection, pulmonary inflammation, painful deep breathing, aggravated asthma, and reduced lung capacity.

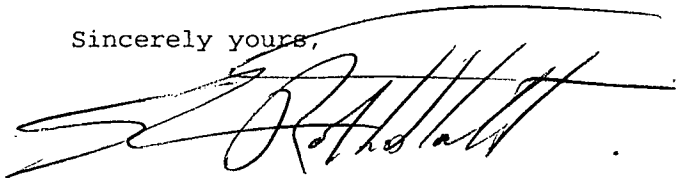
U.S. EPA finds that BASF Admixtures has violated the above requirement. Additionally, Section 183(e)(6) of the CAA provides that, for enforcement purposes, any violation of a regulation established under Section 183 is to be treated as a violation of a new source performance standard under Section 111 of the Act, 42 U.S.C. Section 7411.

Section 113 of the CAA gives us several enforcement options to resolve this violation, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action. The option we select, in part, depends on the efforts taken by BASF Admixtures to correct the alleged violation and the timeframe in which you can demonstrate and maintain continuous compliance with the requirement cited in the FOV.

Before we decide which enforcement option is appropriate, we are offering you the opportunity to request a conference with us about the violation alleged in the FOV. This conference will provide you a chance to present information on the identified violation, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The U.S. EPA contact in this matter is Ray Cullen. You may call him at (312) 886-0538 if you wish to request a conference. U.S. EPA hopes that this FOV will encourage BASF Admixtures' compliance with the requirements of the CAA.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Stephen Rothblatt", is written over a horizontal line.

Stephen Rothblatt, Director  
Air and Radiation Division

Enclosure

cc: Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dennis Bush, APC Supervisor  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Protecting the environment is everyone's responsibility. Help EPA fight pollution by reporting possible harmful environmental activity.

To do so, visit EPA's website at <http://www.epa.gov/compliance/complaints/index.html>.

United States Environmental Protection Agency

IN THE MATTER OF:	)	
	)	
BASF Admixtures, Inc.	)	FINDING OF VIOLATION
f/k/a Degussa Admixtures, Inc.	)	
Cleveland, Ohio	)	EPA-5-07-OH-03
	)	
	)	
Proceedings Pursuant to	)	
the Clean Air Act,	)	
42 U.S.C. §§ 7401 et seq.	)	

**FINDING OF VIOLATION**

BASF Admixtures, Inc., formerly known as Degussa Admixtures, Inc., (BASF Admixtures or you) owns and operates a coating manufacturing facility at 23700 Chagrin Boulevard, Cleveland, Ohio. Since September 13, 1999, BASF Admixtures has manufactured and distributed "architectural coatings," as defined in 40 C.F.R. § 59.401. BASF Admixtures manufactures and distributes at least ten architectural coatings, including, but not limited to, those listed in Table A.

The United States Environmental Protection Agency (U.S. EPA) is sending this Finding of Violation (FOV) to you for failing to ensure that the Volatile Organic Compound (VOC) content of the architectural coatings you manufacture did not exceed the applicable VOC content limits. U.S. EPA finds such failure to be a violation of Sections 183 and 111(e) of the Clean Air Act (CAA), 42 U.S.C. §§ 7511b and 7411(e), and the National Volatile Organic Compound (VOC) Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D (the Architectural Coatings Rule).

You may request a conference with us to discuss the violation alleged in the FOV. This conference will provide you a chance to present information on the identified violation, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney accompany and represent you at this conference.

**Explanation of Violation**

1. The regulatory authority and facility requirements relevant to this FOV are as follows:
  - a. Section 183(e) of the CAA, 42 U.S.C. § 7511b(e), authorizes U.S. EPA to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of VOCs.
  - b. Pursuant to Section 183(e) of the CAA, 42 U.S.C. § 7511b(e), on September 11, 1998, U.S. EPA promulgated the Architectural Coatings Rule at 40 C.F.R. Part 59, Subpart D.

- c. 40 C.F.R. § 59.402(a) requires each manufacturer and importer of any architectural coating subject to Subpart D to ensure that the VOC content of the coating does not exceed the applicable limit in Table 1 of Subpart D, except as provided in Sections 59.403 and 59.404.
  - d. 40 C.F.R. § 59.401 defines "manufacturer" as a person that produces, packages, or repackages architectural coatings for sale or distribution in the United States.
  - e. 40 C.F.R. § 59.401 defines "architectural coating" as a coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs.
  - f. 40 C.F.R. § 59.408(d) states that each manufacturer of architectural coatings that uses the exceedance fee provisions of Section 59.403 must submit the report and exceedance fee payment by March 1 following the calendar year in which the coating was manufactured.
  - g. 40 C.F.R. § 59.408(e) states that each manufacturer of architectural coatings for which a tonnage exemption under Section 59.404 is claimed shall submit a report no later than March 1 of the year following the calendar year in which the exemption was claimed.
2. On February 28, 2006, Charles W. Soeder, Vice President of the Technology, Innovation, and Sustainability Group of BASF Admixtures (then Degussa Admixtures, Inc.), submitted exceedance fee and tonnage exemption reports to U.S. EPA for the years 1999 through 2005 for the architectural coatings listed in Table A, below.

Table A.

Coating	VOC Content	VOC Limit	Years Manufactured				
			1999/2000	2001	2002	2003	2004
MBT EA-SEALER	709	600	Y	Y	Y	Y	Y
MBT LO-LUSTRE SEALER	760	600	Y	Y	Y	Y	Y
PRECO CEMENTRATE	704	350	Y				
MBT MOLD RELEASE	755	450	Y	Y	Y	Y	Y
MBT NON-GLOSS SEALER	768	600	Y	Y	Y	Y	Y
MBT Q-D	755	450	Y	Y	Y	Y	Y
MBT SOLVENT 106	849	450	Y	Y	Y	Y	Y
RHEOFINISH 220i	742	450	Y	Y	Y	Y	Y
MBT RELEASE 101	669	450	Y			Y	
MBT FORM-COTE	847	450	Y	Y	Y	Y	Y

3. Because BASF Admixtures did not submit the exceedance fee and tonnage exemption reports for 1999/2000, 2001, 2002, 2003, and 2004, along with

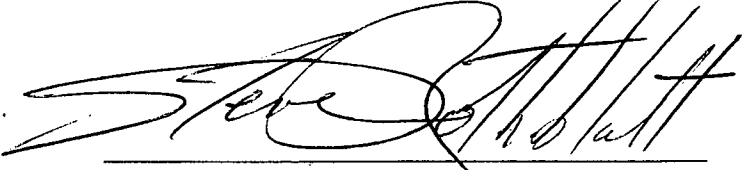
the exceedance fee payments, by March 1 of each subsequent year, it is in violation of 40 C.F.R. § 59.402(a) for those years.

**Environmental Impact of Violations**

4. Exceedances of the VOC content limits in Table 1 of the Architectural Coatings Rule increase public exposure to unhealthy levels of VOCs. VOCs react with nitrogen oxides in the presence of sunlight to form ground-level ozone, which contributes to respiratory problems such as increased susceptibility to respiratory infection, pulmonary inflammation, painful deep breathing, aggravated asthma, and reduced lung capacity.

Date

10/31/2006

  
\_\_\_\_\_  
Stephen Rothblatt, Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-07-OH- 03 , by Certified Mail, Return Receipt Requested, to:

Mr. Charles W. Soeder, Vice President  
Technology, Innovation, and Sustainability Group  
BASF Admixtures, Inc.  
23700 Chagrin Boulevard  
Cleveland, Ohio 44122

I also certify that I sent copies of the Finding of Violation by first class mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dennis Bush, APC Supervisor  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

on the 1<sup>st</sup> day of November, 2006.

Shanee Rucker  
Shanee Rucker,  
Administrative Program Assistant  
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0198 8362